

SECOND REGULAR SESSION

HOUSE BILL NO. 1942

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MOLENDORP (Sponsor),
NANCE AND LICHTENEGGER (Co-sponsors).

6188L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 379.1300, 379.1306, 379.1310, 379.1312, and 379.1326, RSMo, and to enact in lieu thereof six new sections relating to captive insurance companies.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 379.1300, 379.1306, 379.1310, 379.1312, and 379.1326, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 379.1300,
3 379.1306, 379.1310, 379.1312, 379.1326, and 379.1351, to read as follows:

379.1300. As used in sections 379.1300 to [379.1350] **379.1351**, the following terms
2 shall mean:

3 (1) "Affiliated company", any company in the same corporate system as a parent, an
4 industrial insured, or a member organization by virtue of common ownership, control, operation,
5 or management;

6 (2) "Alien captive insurance company", any insurance company formed to write
7 insurance business for its parents and affiliates and licensed under the laws of an alien
8 jurisdiction that imposes statutory or regulatory standards in a form acceptable to the director on
9 companies transacting the business of insurance in such jurisdiction;

10 (3) "Annuity", a contract issued for a valuable consideration under which the obligations
11 are assumed with respect to periodic payments for a specified term or terms or where the making
12 or continuance of all or of some of such payments, or the amount of any such payments, is
13 dependent upon the continuance of human life;

14 (4) "Association", any legal association of individuals, corporations, limited liability
15 companies, partnerships, associations, or other entities that has been in continuous existence for

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 at least one year, the member organizations of which or which does itself, whether or not in
17 conjunction with some or all of the member organizations:

18 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
19 an association captive insurance company incorporated as a stock insurer; [or]

20 (b) Have complete voting control over an association captive insurance company
21 incorporated as a mutual insurer; [or]

22 (c) Constitute all of the subscribers of an association captive insurance company formed
23 as a reciprocal insurer; **or**

24 **(d) Have complete voting control over an association captive insurance company**
25 **formed as a limited liability company;**

26 (5) "Association captive insurance company", any company that insures risks of the
27 member organizations of the association and their affiliated companies; except that, association
28 captive insurance company shall not include, without limitation, any reciprocal insurer that has
29 not chosen to apply for and is not licensed as a captive insurance company under section
30 379.1302;

31 (6) "Branch business", any insurance business transacted by a branch captive insurance
32 company in this state;

33 (7) "Branch captive insurance company", any alien captive insurance company licensed
34 by the director to transact the business of insurance in this state through a business unit with a
35 principal place of business in this state;

36 (8) "Branch operations", any business operations of a branch captive insurance company
37 in this state;

38 (9) "Captive insurance company", any pure captive insurance company, association
39 captive insurance company, **sponsored captive insurance company**, or industrial insured
40 captive insurance company formed or licensed under sections 379.1300 to [379.1350] **379.1351**.
41 For purposes of sections 379.1300 to [379.1350] **379.1351**, a branch captive insurance company
42 shall be a pure captive insurance company with respect to operations in this state, unless
43 otherwise permitted by the director;

44 (10) "Controlled unaffiliated business", any company:

45 (a) That is not in the corporate system of a parent and affiliated companies;

46 (b) That has an existing contractual relationship with a parent or affiliated company; and

47 (c) Whose risks are managed by a pure captive insurance company in accordance with
48 section 379.1338;

49 (11) "Director", the director of the department of insurance, financial institutions and
50 professional registration;

51 (12) "Excess workers' compensation insurance", in the case of an employer that has
52 insured or self-insured its workers' compensation risks in accordance with applicable state or
53 federal law, insurance in excess of a specified per-incident or aggregate limit established by the
54 director;

55 (13) "Industrial insured", an insured:

56 (a) Who procures the insurance of any risk or risks by use of the services of a full-time
57 employee acting as an insurance manager or buyer;

58 (b) Whose aggregate annual premiums for insurance on all risks total at least twenty-five
59 thousand dollars; and

60 (c) Who has at least twenty-five full-time employees;

61 (14) "Industrial insured captive insurance company", any company that insures risks of
62 the industrial insureds that comprise the industrial insured group and their affiliated companies;

63 (15) "Industrial insured group", any group of industrial insureds that collectively:

64 (a) Own, control, or hold with power to vote all of the outstanding voting securities of
65 an industrial insured captive insurance company incorporated as a stock insurer; [or]

66 (b) Have complete voting control over an industrial insured captive insurance company
67 incorporated as a mutual insurer;

68 **(c) Constitute all of the subscribers of an industrial insured captive insurance**
69 **company formed as a reciprocal insurer; or**

70 **(d) Have complete voting control over an industrial captive insurance company**
71 **formed as a limited liability company;**

72 (16) "Member organization", any individual, corporation, limited liability company,
73 partnership, association, or other entity that belongs to an association;

74 (17) "Mutual corporation", a corporation organized without stockholders and includes
75 a nonprofit corporation with members;

76 (18) "Parent", a corporation, limited liability company, partnership, other entity, or
77 individual that directly or indirectly owns, controls, or holds with power to vote more than fifty
78 percent of the outstanding voting:

79 (a) Securities of a pure captive insurance company organized as a stock corporation; or

80 (b) Membership interests of a pure captive insurance company organized as a nonprofit
81 corporation;

82 (19) "Pure captive insurance company", any company that insures risks of its parent and
83 affiliated companies or controlled unaffiliated business.

379.1306. 1. No captive insurance company shall be issued a license unless it shall
2 possess and thereafter maintain unimpaired paid-in capital and surplus of:

3 (1) In the case of a pure captive insurance company, not less than two hundred fifty
4 thousand dollars;

5 (2) In the case of an association captive insurance company, not less than [seven] **five**
6 hundred [fifty] thousand dollars; [and]

7 (3) In the case of an industrial insured captive insurance company, not less than five
8 hundred thousand dollars; **and**

9 **(4) In the case of a sponsored captive insurance company, not less than five**
10 **hundred thousand dollars.**

11 2. The director may prescribe additional capital and surplus based upon the type, volume,
12 and nature of insurance business transacted.

13 3. Capital and surplus may be in the form of cash or an irrevocable letter of credit issued
14 by a bank chartered by the state of Missouri or a member bank of the Federal Reserve System,
15 and approved by the director.

379.1310. 1. A pure captive insurance company may be incorporated as a stock insurer
2 with its capital divided into shares and held by the stockholders as a nonprofit corporation with
3 one or more members, or as a manager-managed limited liability company.

4 2. An association captive insurance company or an industrial insured captive insurance
5 company may be:

6 (1) Incorporated as a stock insurer with its capital divided into shares and held by the
7 stockholders;

8 (2) Incorporated as a mutual insurer without capital stock, the governing body of which
9 is elected by its insureds;

10 (3) Organized as a manager-managed limited liability company; or

11 (4) Organized as a reciprocal insurer in accordance with sections 379.650 to 379.790.

12 3. A captive insurance company incorporated or organized in this state shall have not less
13 than three incorporators or three organizers of whom not less than one shall be a resident of this
14 state.

15 4. In the case of a captive insurance company:

16 (1) Formed as a corporation, before the articles of incorporation are transmitted to the
17 secretary of state, the incorporators shall petition the director to issue a certificate setting forth
18 the director's finding that the establishment and maintenance of the proposed corporation will
19 promote the general good of the state. In arriving at such a finding the director shall consider:

20 (a) The character, reputation, financial standing and purposes of the incorporators;

21 (b) The character, reputation, financial responsibility, insurance experience, and business
22 qualifications of the officers and directors; and

23 (c) Such other aspects as the director shall deem advisable. The articles of incorporation,
24 such certificate, and the organization fee shall be transmitted to the secretary of state, who shall
25 thereupon record both the articles of incorporation and the certificate;

26 (2) Formed as a limited liability company, before the articles of organization are
27 transmitted to the secretary of state, the organizers shall petition the director to issue a certificate
28 setting forth the director's finding that the establishment and maintenance of the proposed
29 company will promote the general good of the state. In arriving at such a finding, the director
30 shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection;

31 (3) Formed as a reciprocal insurer, the organizers shall petition the director to issue a
32 certificate setting the director's finding that the establishment and maintenance of the proposed
33 association will promote the general good of the state. In arriving at such a finding the director
34 shall consider the items set forth in paragraphs (a) to (c) of subdivision (1) of this subsection.

35 5. The capital stock of a captive insurance company incorporated as a stock insurer may
36 be authorized with no par value.

37 6. In the case of a captive insurance company:

38 (1) Formed as a corporation, at least one of the members of the board of directors shall
39 be a resident of this state;

40 (2) Formed as a limited liability company, at least one of the managers shall be a resident
41 of this state;

42 (3) Formed as a reciprocal insurer, at least one of the members of the subscribers'
43 advisory committee shall be a resident of this state.

44 7. Other than captive insurance companies formed as limited liability companies under
45 chapter 347, or as nonprofit corporations under chapter 355, captive insurance companies formed
46 as corporations under sections 379.1300 to [379.1350] **379.1351** shall have the privileges and
47 be subject to chapter 351 as well as the applicable provisions contained in sections 379.1300 to
48 379.1308. In the event of conflict between the provisions of such general corporation law and
49 sections 379.1300 to [379.1350] **379.1351**, sections 379.1300 to [379.1350] **379.1351** shall
50 control.

51 8. Captive insurance companies formed under sections 379.1300 to [379.1350]
52 **379.1351**:

53 (1) As limited liability companies shall have the privileges and be subject to the
54 provisions of chapter 347 as well as the applicable provisions contained in sections 379.1300 to
55 [379.1350] **379.1351**. In the event of a conflict between chapter 347 and sections 379.1300 to
56 [379.1350] **379.1351**, sections 379.1300 to [379.1350] **379.1351** shall control; or

57 (2) As nonprofit corporations shall have the privileges and be subject to the provisions
58 of chapter 355 as well as the applicable provisions contained in sections 379.1300 to [379.1350]

59 **379.1351.** In the event of conflict between chapter 355 and sections 379.1300 to [379.1350]
60 **379.1351**, sections 379.1300 to [379.1350] **379.1351** shall control.

61 9. The provisions of section 375.355, section 375.908, sections 379.980 to 379.988, and
62 chapter 382, pertaining to mergers, consolidations, conversions, mutualizations,
63 redomestications, and mutual holding companies shall apply in determining the procedures to
64 be followed by captive insurance companies in carrying out any of the transactions described
65 therein; except that:

66 (1) The director may waive [or modify] the requirements for public notice and hearing,
67 **or** in accordance with rules which the director may adopt addressing categories of transactions,
68 **modify the requirements for public notice and hearing.** If a notice of public hearing is
69 required, but no one requests a hearing **ten days before the day set for the hearing**, then the
70 director may cancel the hearing;

71 (2) An alien insurer may be a party to a merger or a redomestication authorized under
72 this subsection, if approved by the director; **and**

73 (3) **The director may issue a certificate of general good to permit the formation of**
74 **a captive insurance company that is established for the sole purpose of consolidating or**
75 **merging with or assuming existing insurance or reinsurance business from an existing**
76 **Missouri licensed captive insurance company. The director may, upon a request of such**
77 **newly formed captive insurance company, waive or modify the requirements of paragraph**
78 **(b) of subdivision (1) and subdivision (2) of subsection 3 of section 379.1302.**

79 10. The articles of incorporation or bylaws of a captive insurance company formed as
80 a corporation may authorize a quorum of its board of directors to consist of no fewer than
81 one-third of the full board of directors [determined], provided that a quorum shall not consist of
82 fewer than two directors.

83 11. Captive insurance companies formed as reciprocal insurers under the provisions of
84 sections 379.1300 to [379.1350] **379.1351** shall have the privileges and be subject to the
85 provisions of sections 379.650 to 379.790 in addition to the applicable provisions of sections
86 379.1300 to [379.1350] **379.1351.** In the event of a conflict between the provisions of sections
87 379.650 to 379.790 and the provisions of sections 379.1300 to [379.1350] **379.1351**, the latter
88 shall control, to the extent a reciprocal insurer is made subject to other provisions of chapters
89 374, 375, and 379 under sections 379.650 to 379.790, such provisions shall not be applicable to
90 a reciprocal insurer formed under sections 379.1300 to [379.1350] **379.1351** unless such
91 provisions are expressly made applicable to captive insurance companies under sections
92 379.1300 to [379.1350] **379.1351.**

93 12. The subscribers' agreement or other organizing document of a captive insurance
94 company formed as a reciprocal insurer may authorize a quorum of its subscribers' advisory
95 committee to consist of no fewer than one-third of the number of its members.

 379.1312. 1. Captive insurance companies shall not be required to make any annual
2 report except as provided in sections 379.1300 to [379.1350] **379.1351**.

3 2. Prior to March first of each year, each captive insurance company shall submit to the
4 director a report of its financial condition, verified by oath of two of its executive officers. Each
5 captive insurance company shall report using generally accepted accounting principles, unless
6 the director approves the use of statutory accounting principles, with any appropriate or
7 necessary modifications or adaptations thereof required or approved or accepted by the director
8 for the type of insurance and kinds of insurers to be reported upon, and as supplemented by
9 additional information required by the director. Except as otherwise provided, each association
10 captive insurance company shall file its report in the form required by section 375.041. The
11 director shall by rule propose the forms in which pure captive insurance companies and industrial
12 insured captive insurance companies shall report. Subdivision (3) of subsection [2] **3** of section
13 379.1302 shall apply to each report filed under this section.

14 3. Any pure captive insurance company or an industrial insured captive insurance
15 company may make written application for filing the required report on a fiscal year end. If an
16 alternative reporting date is granted:

17 (1) The annual report is due sixty days after the fiscal year end; and

18 (2) In order to provide sufficient detail to support the premium tax return, the pure
19 captive insurance company or industrial insured captive insurance company shall file prior to
20 March first of each year for each calendar year end its balance sheet, income statement and
21 statement of cash flows, verified by oath of two of its executive officers.

 379.1326. 1. Each captive insurance company shall pay to the director of revenue, on
2 or before May first of each year, a premium tax at the rate of thirty-eight-hundredths of one
3 percent on the first twenty million dollars and two hundred eighty-five-thousandths of one
4 percent on the next twenty million dollars and nineteen-hundredths of one percent on the next
5 twenty million dollars and seventy-two-thousandths of one percent on each dollar thereafter on
6 the direct premiums collected or contracted for on policies or contracts of insurance written by
7 the captive insurance company during the year ending December thirty-first next preceding, after
8 deducting from the direct premiums subject to the tax the amounts paid to policyholders as return
9 premiums which shall include dividends on unabsorbed premiums or premium deposits returned
10 or credited to policyholders; provided, however, that no tax shall be due or payable as to
11 considerations received for annuity contracts.

12 2. Each captive insurance company shall pay to the director of revenue on or before May
13 first of each year a premium tax at the rate of two hundred fourteen-thousandths of one percent
14 on the first twenty million dollars of assumed reinsurance premium, and one hundred
15 forty-three-thousandths of one percent on the next twenty million dollars and
16 forty-eight-thousandths of one percent on the next twenty million dollars and
17 twenty-four-thousandths of one percent of each dollar thereafter. However, no reinsurance
18 premium tax applies to premiums for risks or portions of risks which are subject to taxation on
19 a direct basis under subsection 1 of this section. No reinsurance premium tax shall be payable
20 in connection with the receipt of assets in exchange for the assumption of loss reserves and other
21 liabilities of another insurer under common ownership and control if such transaction is part of
22 a plan to discontinue the operations of such other insurer, and if the intent of the parties to such
23 transaction is to renew or maintain such business with the captive insurance company.

24 3. The annual:

25 (1) Minimum aggregate tax to be paid by a captive insurance company calculated under
26 subsections 1 and 2 of this section shall be seven thousand five hundred dollars, and the annual
27 maximum aggregate tax shall be two hundred thousand dollars;

28 (2) **Minimum aggregate tax to be paid by a sponsored captive insurance company**
29 **shall be seven thousand five hundred dollars and shall apply to the sponsored captive**
30 **insurance company as a whole and not to each protected cell, and such cells shall not be**
31 **subject to the minimum tax;**

32 (3) **Maximum tax to be paid by a protected cell shall be as calculated under**
33 **subsection 1 of this section. The annual maximum tax to be remitted by a sponsored**
34 **captive insurance company shall be the aggregate of the tax liabilities of each protected**
35 **cell.**

36 4. Every captive insurance company shall, on or before February first each year, make
37 a return on a form provided by the director, verified by the affidavit of the company's president
38 and secretary or other authorized officers, to the director stating the amount of all direct
39 premiums received and assumed reinsurance premiums received, whether in cash or in notes,
40 during the year ending on December thirty-first next preceding. Upon receipt of such returns,
41 the director of the department of insurance, financial institutions and professional registration
42 shall verify the same and certify the amount of tax due from the various companies on the basis
43 and at the rate provided in subsections 1 to 3 of this section, and shall certify the same to the
44 director of revenue, on or before March thirty-first of each year. The director of revenue shall
45 immediately thereafter notify and assess each company the amount of tax due.

46 5. A captive insurance company failing to make returns as required by subsection 4 of
47 this section or failing to pay within the time required all taxes assessed by this section shall be
48 subject to the provisions of sections 148.375 and 148.410.

49 6. Two or more captive insurance companies under common ownership and control shall
50 be taxed as though they were a single captive insurance company.

51 7. For the purposes of this section, **the following terms shall mean:**

52 (1) "Common ownership and control" [shall mean] **ownership and control of two or**
53 **more captive insurance companies by the same person or group of persons;**

54 (2) "Ownership and control":

55 [(1)] (a) In the case of stock corporations, the direct or indirect ownership of eighty
56 percent or more of the outstanding voting stock of [two or more corporations by the same
57 shareholder or shareholders; and] **the corporation;**

58 [(2)] (b) In the case of mutual or nonprofit corporations, the direct or indirect ownership
59 of eighty percent or more of the surplus and the voting power of [two or more corporations by
60 the same member or members] **the corporation;**

61 (c) **In the case of a limited liability company, the direct or indirect ownership of**
62 **eighty percent or more of the membership interest in the limited liability company; and**

63 (d) **In the case of a sponsored captive insurance company and for purposes of this**
64 **section, a protected cell shall be treated as a separate captive insurance company owned**
65 **and controlled by the protected cell's participant, but only if:**

66 a. **The participant is the only participant with respect to such protected cell; and**

67 b. **The participant is the sponsor or is affiliated with the sponsor of the sponsored**
68 **captive insurance company through common ownership and control.**

69 8. The tax provided for in this section shall constitute all taxes collectible under the laws
70 of this state from any captive insurance company, and no other occupation tax or other taxes
71 shall be levied or collected from any captive insurance company by the state or any county, city,
72 or municipality within this state, except ad valorem taxes on real and personal property used in
73 the production of income.

74 9. Upon receiving the taxes collected under this section from the director of revenue, the
75 state treasurer shall receipt ten percent thereof into the insurance dedicated fund established
76 under section 374.150, subject to a maximum of three percent of the current fiscal year's
77 appropriation from such fund, and he or she shall place the remainder of such taxes collected to
78 the general revenue fund of the state.

79 10. The tax provided for in this section shall be calculated on an annual basis,
80 notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a

81 multiyear basis. In the case of multiyear policies or contracts, the premium shall be prorated for
82 purposes of determining the tax under this section.

83 11. A captive insurance company may deduct from premium taxes payable to this state,
84 in addition to all other credits allowed by law, license fees and renewal fees payable under
85 section 379.1302. A deduction for fees which exceeds a captive insurance company's premium
86 tax liability for the same tax year shall not be refundable, but may be carried forward to any
87 subsequent tax year, not to exceed five years, until the full deduction is claimed.

**379.1351. 1. One or more sponsors may form a sponsored captive insurance
2 company under sections 379.1300 to 379.1351. In addition to the general provisions of
3 sections 379.1300 to 379.1351, the provisions of this section shall apply to sponsored captive
4 insurance companies. A sponsored captive insurance company shall be incorporated as
5 a stock insurer with its capital divided into shares and held by the stockholders, as a
6 mutual corporation, as a nonprofit corporation with one or more members, or as a
7 manager-managed limited liability company.**

8 **2. As used in this section, unless the context requires otherwise, the following terms**
9 **shall mean:**

10 **(1) "Incorporated protected cell", a protected cell that is established as a**
11 **corporation or limited liability company separate from the sponsored captive insurance**
12 **company, of which it is a part;**

13 **(2) "Participant", an entity described in subsection 7 of this section and any**
14 **affiliates thereof that is insured by a sponsored captive insurance company, where the**
15 **losses of the participant are limited through a participant contract to such participant's pro**
16 **rata share of the assets of one or more protected cells identified in such participant**
17 **contract;**

18 **(3) "Participant contract", a contract by which a sponsored captive insurance**
19 **company insures the risks of a participant and limits the losses of each such participant to**
20 **its pro rata share of the assets of one or more protected cells identified in such participant**
21 **contract;**

22 **(4) "Protected cell", a separate account established by a sponsored captive**
23 **insurance company formed or licensed under this chapter in which assets are maintained**
24 **for one or more participants in accordance with the terms of one or more participant**
25 **contracts to fund the liability of the sponsored captive insurance company assumed on**
26 **behalf of such participants as set forth in such participant contracts, and shall include an**
27 **incorporated protected cell, as defined in this section;**

28 (5) "Sponsor", any entity that meets the requirements of subsection 6 of this section
29 and is approved by the director to provide all or part of the capital and surplus required
30 by applicable law and to organize and operate a sponsored captive insurance company;

31 (6) "Sponsored captive insurance company", any captive insurance company:

32 (a) In which the minimum capital and surplus required by applicable law is
33 provided by one or more sponsors;

34 (b) That is formed or licensed under the provisions of sections 379.1300 to
35 379.1351;

36 (c) That insures the risks only of its participants through separate participant
37 contracts; and

38 (d) That funds its liability to each participant through one or more protected cells
39 and segregates the assets of each protected cell from the assets of other protected cells and
40 from the assets of the sponsored captive insurance company's general account.

41 3. In addition to the information required by subsection 3 of section 379.1302, each
42 applicant-sponsored captive insurance company shall file with the director the following:

43 (1) Materials demonstrating how the applicant will account for the loss and expense
44 experience of each protected cell at a level of detail found to be sufficient by the director,
45 and how it will report such experience to the director;

46 (2) A statement acknowledging that all financial records of the sponsored captive
47 insurance company, including records pertaining to protected cells, shall be made available
48 for inspection or examination by the director or the director's designated agent;

49 (3) All contracts or sample contracts between the sponsored captive insurance
50 company and any participants; and

51 (4) Evidence that expenses shall be allocated to each protected cell in a fair and
52 equitable manner.

53 4. A sponsored captive insurance company formed or licensed under this chapter
54 may establish and maintain one or more protected cells to insure risks of one or more
55 participants, subject to the following conditions:

56 (1) The shareholders of a sponsored captive insurance company shall be limited to
57 its participants and sponsors, provided that a sponsored captive insurance company may
58 issue nonvoting securities to other persons on terms approved by the director;

59 (2) Each protected cell shall be accounted for separately on the books and records
60 of the sponsored captive insurance company to reflect the financial condition and results
61 of operations of such protected cell, net income or loss, dividends or other distributions to
62 participants, and such other factors as may be provided in the participant contract or
63 required by the director;

64 (3) The assets of a protected cell shall not be chargeable with liabilities arising out
65 of any other insurance business the sponsored captive insurance company may conduct;

66 (4) No sale, exchange, transfer of assets, dividend or distribution may be made by
67 such sponsored captive insurance company between or among any of its protected cells
68 without the consent of such protected cells;

69 (5) No sale, exchange, transfer of assets, dividend or distribution may be made from
70 a protected cell to a sponsor or participant without the director's approval and in no event
71 shall such approval be given if the sale, exchange, transfer, dividend, or distribution would
72 result in insolvency or impairment with respect to a protected cell;

73 (6) All attributions of assets and liabilities to the protected cells and the general
74 account shall be in accordance with the plan of operation approved by the director. No
75 other attribution of assets or liabilities may be made by a sponsored captive insurance
76 company between its general account and any protected cell or between any protected cells.
77 The sponsored captive insurance company shall attribute all insurance obligations, assets,
78 and liabilities relating to a reinsurance contract entered into with respect to a protected cell
79 to such protected cell. The performance under such reinsurance contract and any tax
80 benefits, losses, refunds, or credits allocated under a tax allocation agreement to which the
81 sponsored captive insurance company is a party, including any payments made by or due
82 to be made to the sponsored captive insurance company under the terms of such
83 agreement, shall reflect the insurance obligations, assets, and liabilities relating to the
84 reinsurance contract that are attributed to such protected cell;

85 (7) In connection with the conservation, rehabilitation, or liquidation of a
86 sponsored captive insurance company, the assets and liabilities of a protected cell shall, to
87 the extent the director determines they are separable, at all times be kept separate from
88 and shall not be commingled with those of other protected cells and the sponsored captive
89 insurance company;

90 (8) The "general account" of a sponsored captive insurance company means all
91 assets and liabilities of the sponsored captive insurance company not attributable to a
92 protected cell;

93 (9) Each sponsored captive insurance company shall annually file with the director
94 such financial reports as the director shall require, which shall include, without limitation,
95 accounting statements detailing the financial experience of each protected cell;

96 (10) Each sponsored captive insurance company shall notify the director in writing
97 within ten business days of any protected cell that is insolvent or otherwise unable to meet
98 its claim or expense obligations;

99 **(11) No participant contract shall take effect without the director's prior written**
100 **approval, and the addition of each new protected cell and withdrawal of a participant or**
101 **termination of any existing protected cell shall constitute a change in the business plan**
102 **requiring the director's prior written approval;**

103 **(12) If required by the director in the director's discretion, the business written by**
104 **a sponsored captive, with respect to each cell, shall be:**

105 **(a) Fronted by an insurance company licensed under the laws of any state;**

106 **(b) Reinsured by reinsurer authorized or approved by the state of Missouri; or**

107 **(c) Secured by a trust fund in the United States for the benefit of policyholders and**
108 **claimants or funded by an irrevocable letter of credit or other arrangement that is**
109 **acceptable to the director.**

110
111 **The director may require the sponsored captive to increase the funding of any security**
112 **arrangement established under this subdivision. If the form of security is a letter of credit,**
113 **the letter of credit shall be issued or confirmed by a bank approved by the director. A**
114 **trust maintained under this subdivision shall be established in a form and upon such terms**
115 **approved by the director;**

116 **(13) Notwithstanding the provisions of sections 375.1150 to 375.1246 or other laws**
117 **of this state, and in addition to the provisions of subsection 9 of this section, in the event**
118 **of an insolvency of a sponsored captive insurance company where the director determines**
119 **that one or more protected cells remain solvent, the director may separate such cells from**
120 **the sponsored captive insurance company, and may allow, on application of the sponsor**
121 **for the conversion of such protected cells into one or more new or existing sponsored**
122 **captive insurance companies with a sponsor or sponsors, or one or more other captive**
123 **insurance companies, under such plan or plans of operation as the director deems**
124 **acceptable.**

125 **5. A protected cell of a sponsored captive insurance company may be formed as an**
126 **incorporated protected cell, as described in subdivision (1) of subsection 4 of this section.**
127 **The articles of incorporation or articles of organization of an incorporated protected cell**
128 **shall refer to the sponsored captive insurance company for which it is a protected cell and**
129 **shall state that the protected cell is incorporated or organized for the limited purposes**
130 **authorized by the sponsored captive insurance company's license. A copy of the prior**
131 **written approval of the director to add the incorporated protected cell, required by**
132 **subdivision (11) of subsection 4 of this section, shall be attached to and filed with the**
133 **articles of incorporation or articles of organization. It is the intent of the general assembly,**
134 **under this subsection to provide sponsored captive insurance companies with the option**

to establish one or more protected cells as a separate corporation formed under chapter 351 or limited liability company formed under chapter 347. This section shall not be construed to limit any rights or protections applicable to protected cells not established as corporations or limited liability companies.

6. A sponsor of a sponsored captive insurance company may be any person approved by the director in the exercise of the director's discretion, based on a determination that the approval of such person as sponsor is consistent with the purposes of sections 379.1300 to 379.1351. In evaluating the qualifications of a proposed sponsor, the director shall consider the type and structure of the proposed sponsor entity, its experience in financial operations, financial stability, and strength business reputation and such other facts deemed relevant by the director. A risk retention group shall not be either a sponsor or a participant of a sponsored captive insurance company.

7. Associations, corporations, limited liability companies, partnerships, trusts, and other business entities may be participants in any sponsored captive insurance company formed or licensed under this chapter. A sponsor may be a participant in a sponsored captive insurance company. A participant need not be a shareholder of the sponsored captive insurance company or an affiliate thereof. A participant shall insure only its own risks through a sponsored captive insurance company.

8. Notwithstanding the provisions of subsection 4 of this section, the assets of two or more protected cells may be combined for purposes of investment and such combination shall not be construed as defeating the segregation of such assets for accounting or other purposes. Sponsored captive insurance companies shall comply with the investment requirements contained in sections 379.080 and 379.082, as applicable; provided, however, that compliance with such investment requirements shall be waived for sponsored captive insurance companies to the extent that credit for reinsurance ceded to reinsurers is allowed under section 379.1320 or to the extent otherwise deemed reasonable and appropriate by the director. The director shall exercise his or her discretion in approving the accounting standards in use by the company. Notwithstanding any other provision of this chapter, the director may approve the use of alternative reliable methods of valuation and rating.

9. Except as otherwise provided in this section, the provisions of sections 375.1150 to 375.1246 shall apply in full to a sponsored captive insurance company. Upon any order of supervision, rehabilitation or liquidation of a sponsored captive insurance company, the receiver shall manage the assets and liabilities of the sponsored captive insurance company under this section. Notwithstanding the provisions of sections 375.1150 to 375.1246:

(1) The assets of a protected cell shall not be used to pay any expense or claims other than those attributable to such protected cell; and

171 **(2) A sponsored captive insurance company's capital and surplus shall at all times**
172 **be available to pay any expenses of or claims against the sponsored captive insurance**
173 **company.**

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